

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
MARCH 12, 2013 – 6:00 P.M.
NEW CITY HALL
COUNCIL CHAMBERS/AUDITORIUM

Mayor Fred L. Fitch
Presiding

Also Present:
Bryan Long, City Manager
Frank V. Jensen, City Attorney
Traci Hushbeck, City Clerk

Mayor Fitch called the meeting to order at 6:04 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Pastor Willie Smith, Jr., Bethlehem Baptist Church, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT:

Bob Morford, Ward One
Keith Jackson, Ward Two
Rosemary Bellino-Hall, Ward Three
Richard Zarle, Ward Six
Stanley Haywood, Ward Seven
Doug Wells, Ward Eight

ABSENT:

George Moses, Ward Five
Jay Burk, Ward Four

Mayor Fitch stated there are positions on several boards, trusts and committees that need a council representative. Those positions are for Lawton Enhancement Trust Authority, Library Board, Museum of Great Plains and two positions on the Engineering Selection Committee. He asked for volunteers from the council to fill these vacancies.

Wells stated he would sit on the Museum Board and the Library Board.

Bellino-Hall stated she would fill the position on Lawton Enhancement Trust Authority.

Zarle and Jackson volunteered for the two positions on the Engineering Selection Committee.

PROCLAMATION FOR VIETNAM VETERANS AWARENESS DAY

Mayor Fitch proclaimed March 12, 2013 as Vietnam Veteran's Awareness Day.

PRESENTATION OF OKLAHOMA MUNICIPAL LEAGUE HONOR ROLL OF SERVICE

Carolyn Stager, Executive Director of Oklahoma Municipal League and Mayor Fitch presented certificates and 25 year service pins to City of Lawton employees Lonnie London and Rusty Wright.

CONDUCT ELECTION OF MAYOR PRO TEM

MOVED by Haywood SECOND by Zarle to nominate Doug Wells to serve as Mayor Pro Tem. AYE: Jackson, Bellino-Hall, Zarle, Haywood, Wells, Morford. NAY: None. MOTION CARRIED.

AUDIENCE PARTICIPATION: None

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETING OF JANUARY 8, 2013.

MOVED by Wells SECOND by Zarle to approve the minutes of January 8, 2013. AYE: Morford, Jackson, Bellino-Hall, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

CONSENT AGENDA

Mayor Fitch stated item #3 will be stricken from the agenda.

MOVED by Wells SECOND by Morford to approve the consent agenda with the exception of item #3. AYE: Morford, Jackson, Bellino-Hall, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

1. Consider the following damage claim recommended for approval: Shawna Jensen in the amount of \$15,999.25. Exhibits: **Resolution 13-20** and Legal Opinion/Recommendation.
2. Consider approving a Third Amendment to Lease Agreement between the City of Lawton, Oklahoma, and T-Mobile Central LLC, and authorize the Mayor and City Clerk to execute the amendment. Exhibits: Third Amendment to Lease Agreement is on file in the City Clerk's Office.
3. Consider approving a resolution of support for HB 1503 regarding text-based communication while the motor vehicle is in motion. Exhibits: Resolution No. 13-__ and HB 1503. **STRICKEN FROM AGENDA**
4. Consider accepting a donation from Craig Billingsley, dba Billingsley Ford of Lawton, Inc., of a 2007 Ford Edge vehicle to be used by Crimestoppers investigators. Exhibits: Letter from Crime Stoppers/Drug Busters of Southwest Oklahoma, Inc.
5. Consider releasing the letter of credit and accepting the 8-inch waterline, fire hydrants and maintenance bond for the Replat of Lot 3, Block 1, Bilbrey's East Plaza, Part One. Exhibits: Location Map. Maintenance Bond on file in City Clerk's Office.

6. Consider rejecting bids for the South Wolf Creek Expansion #1 Siphon Project. Exhibits: None.
7. Consider authorizing the Mayor to sign and execute Addendum B to the Oklahoma Department of Environmental Quality (ODEQ) Consent Order, Case No. 02-397 establishing the Phase III schedule for the Citywide Sewer Rehabilitation Program. Exhibits: Consent Order, Case No. 02-397 Addendum B is on file in the City Clerk's Office.
8. Consider awarding a construction contract to Parathon Construction, LLC. for the Lawton City Offices –Sidewalk Rehabilitation (New City Hall) Project #2013-01. Exhibits: None.
9. Consider adopting a Resolution authorizing the installation and/or removal of traffic control measures on: Westbound SW Lee Boulevard at the intersection with SW 25th Place; northbound and southbound SW Ard Avenue at the intersection with SW Neal Boulevard. Exhibits: **Resolution No. 13-21** and Traffic Commission Minutes and Traffic Issue Requests.
10. Consider extending contract (CL11-018) Mowing & Litter Areas McMahon Auditorium & Great Plains Museum Front & Parking Lots with Teen Challenge of Cache, OK. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.
11. Consider awarding (CL13-029) Asphalt Crack Filler Material to Right Pointe Company of DeKalb, IL. Exhibits: Department recommendation, abstract of bids, price sheet.
12. Consider extending contract (CL11-019) Wrecker Service with Priest Brothers of Lawton, OK. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.
13. Consider awarding (CL13-030) Liquid Aluminum Sulfate to General Chemical Performance Products of Parsippany, NJ. Exhibits: Department recommendation, abstract of bids, price sheet.
14. Consider approving appointments to boards and commissions. Exhibits: None.
15. Consider approval of payroll for the period of February 18 – March 3, 2013.

NEW BUSINESS ITEMS:

16. Hold a public hearing and consider an ordinance amending Section 18-4-1-404.1 of the Lawton City Code modifying building permit requirements for accessory structures, modifying the side yard setback requirements for detached accessory structures on corner lots within residential districts, modifying the building permit requirement for fences, and adding the definition and regulations for covered porches extending into front and side yard setbacks. Exhibits: Ordinance No. 13-__ and CPC Minutes.

Richard Rogalski, Community Services Director, stated Section 18-4-1-404.1 is basically an area of general rules that apply to all districts. There are four important things they are trying to do tonight with this code. There have been a number of issues recently involving the section of City Code regulating accessory structures, fences, and front porches. For several months the City Planning Commission has discussed amending the City Code to eliminate the requirement for building permits for small accessory structures not on a permanent foundation and for replacement of fences and to allow small accessory structures on corner lots to extend into the side yard setback and covered porches to extend into the front and side yard setbacks. This ordinance would allow accessory structures less than 200 square feet located within an opaque screening fence between 6 feet and 8 feet high to observe a minimum side yard setback of 5 feet from the right-of-way of the intersecting street on a corner lot in all residential districts. The opaque screening fence must be maintained in place or the accessory structure must be relocated to meet the minimum setback of the zoning district. The proposed amendment does not change the setback requirement for detached garages or other structures designed to be accessed from the street. Currently all accessory structures regardless of size require a building permit. The proposed ordinance would require a building permit only for accessory structures located on a permanent foundation or having a gross floor area greater than 200 square feet. Currently a building permit is required for all fence construction or replacement. The proposed ordinance would require a building permit only to construct a new fence and to replace fencing if new post holes or other excavation will be required. This ordinance would allow covered porches to extend up to 10 feet into the front yard setback or into the side yard setback on a corner lot when the covered porches are open on three sides from the grade surface to the eave line; requires covered porches to harmonize with the main structure in material and appearance; sets the maximum height at 24 feet or the height of the structure, whichever is less; requires covered porches to be anchored to the ground with minimum 12-inch diameter concrete footings set a minimum of 24 inches into the ground and able to withstand a minimum of 20 pounds per square foot of uplift pressure; and for covered porches which extend into the platted building limit line, the applicant must sign a disclaimer indicating they understand the building permit does not relieve them of any obligation to any plat restrictions, covenants, or conditions that may prohibit or limit the construction of the covered porch. The proposed regulations for covered porches are similar to the regulations for carports.

Rogalski stated they discussed these issues quit a bit at the planning commission. They had three working sessions where they discussed the code and they felt it was a good step forward in terms of trying to get out of the smaller business but still maintaining a balance of care in terms of the general safety of the public. Notice of public hearing was published in *The Lawton Constitution* on February 24, 2013.

Jackson questioned if they discussed sprinkler systems when we are digging trenches.

Rogalski stated we don't know where they are either. There is a separate revocable permit issue for those in the front yard when they are in the right of way. He stated awareness is the key and they need to educate people that they need that locate.

Jackson stated that is a concern when you are digging trenches.

Rogalski stated as this code is written if you are putting stuff right back in the same holes, you are good and if you not putting a permanent foundation, you can move it.

Wells complimented staff for coming up with common sense solutions that make things easier for our citizens.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Wells, SECOND by Haywood to adopt **Ordinance 13-10**, waive the reading of the ordinance, read the title only. AYE: Morford, Jackson, Bellino-Hall, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 13-10

An ordinance related to planning and zoning amending Section 18-4-1-404.1, Chapter 18, Lawton City Code, 2005, modifying the building permit requirements for accessory structures, modifying the side yard setback requirements for detached accessory structures on corner lots within residential use districts, modifying the building permit requirements for fences, adding the definition and regulations for covered porches extending into front and side yard setbacks and providing for severability.

17. Consider an ordinance amending Section 23-5-525, Article 23-5, Chapter 23, Lawton City Code, 2005, pertaining to funeral processions, providing for severability and providing for an effective date. Exhibits: Ordinance No. 13-__.

Jensen stated as state law, the City of Lawton has a traffic offense on the books for driving a vehicle through a funeral procession. There is an additional exception that is needed where this law would not apply. Right now it does not apply if your are being directed by a traffic control officer to proceed through an intersection area even though a funeral procession is going through. They also added, as state law added last year, at an intersection where traffic is controlled by traffic control signals. Sometimes you will be stuck and you will have to proceed. He stated they also added the same provision as state law for punishment into the city code.

Wells questioned if you are at a traffic light and it turns green and there is a funeral procession, you are supposed to go through.

Jensen stated if you do there is now a recognized exception for doing that because there could be some circumstances where you will be forced to. You could also be directed to go through by a police office or traffic control personnel. If the exception applies we are not going to cite you for a traffic offense.

MOVED by Wells, SECOND by Haywood to adopt **Ordinance 13-11**, waive the reading of the ordinance, read the title only and establishing an effective date. AYE: Morford, Jackson, Bellino-Hall, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 13-11

An ordinance amending Section 23-5-525, Article 23-5, Chapter 23, Lawton City Code, 2005, pertaining to funeral processions, providing for severability and providing for an effective date.

18. Consider an ordinance amending Section 23-7-703, Article 23-7, Chapter 23, Lawton City Code, 2005, pertaining to radar detectors in commercial motor vehicles, providing for severability and establishing an effective date. Exhibits: Ordinance No. 13-__.

Jensen stated there was also a new change to the law that added the offense of having a radar detector in a commercial motor vehicle. There are three categories of offenses here. If you do anything in connection with a radar detector in a commercial motor vehicle, whether operating the vehicle, installing the detector or just being present as a passenger and attempting to use it, this is a new offense.

Jackson questioned what is considered a commercial vehicle?

Jensen stated there is a definition in state law. If it has a commercial tag, that is going to be a good starting point.

MOVED by Jackson, SECOND by Morford to adopt **Ordinance 13-12**, waive the reading of the ordinance, read the title only and establishing an effective date. AYE: Morford, Jackson, Bellino-Hall, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 13-12

An ordinance creating Section 23-7-703, Article 23-7, Chapter 23, Lawton City Code, 2005, pertaining to radar detectors in commercial motor vehicles, providing for severability, codification, and establishing an effective date.

19. Consider approving a resolution authorizing approval of a Reciprocal Easement Agreement by and among Lawton Town Center, LLC, Lawton Lodging, LLC, Lawton Economic Development Authority, and the City of Lawton for the Lawton Downtown Redevelopment Project. Exhibits: Resolution 13-__ and Exhibits E-I from Reciprocal Easement Agreement. The Reciprocal Easement Agreement is on file in the City Clerk's Office)

Rogalski stated as part of the downtown project, there are a number of property owners, present and future, that are having to work together on some of these easements. Rather than having a whole list of different easements, LEDA's attorney came up with this Reciprocal Easement Agreement. This is one documents that covers all of these easements, not just public, but also private easements between the different parcels. As properties close, it can become more difficult to get reciprocal easements, so this is the time to get it done, at the beginning of the project. The City's part is to accept the public easements that are being granted. While this is not all the easements that will be in the project, these are the easements that surround the hotel tract and that is why there are multiple parties involved.

Haywood questioned if the D-6 area goes west to 4th Street.

Rogalski stated the D-6 urban renewal area does go west all the way to 4th Street. The zoning transitions from mixed use into residential use over towards 4th Street.

Morford questioned if this included driveways and sidewalks.

Rogalski stated those are all engineering requirements that are being put together on the plan. Those are not covered here because this is just the agreement for the easements back and forth.

Mayor Fitch stated the sidewalks and streets are in other sets of plans that have been approved. This is basically for utilities.

Rogalski stated in the agreement between the property owners, the maintenance of the private drives are covered, not the construction. Any of the things in the public streets and rights of way are pure code requirements and when they are built they will be public once they are done. They will be brought back to council to accept.

MOVED by Haywood, SECOND by Wells to approve **Resolution 13-22** authorizing approval of a Reciprocal Easement Agreement by and among Lawton Town Center, LLC, Lawton Lodging, LLC, Lawton Economic Development Authority, and the City of Lawton for the Lawton Downtown Redevelopment Project. AYE: Morford, Jackson, Bellino-Hall, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Mayor Fitch welcomed Keith Jackson and Bob Morford to the council. He stated that Keith Jackson will be sitting on the Lawton Economic Development Authority, who will be meeting on Thursday to discuss the final overview of the 2nd Street project. He stated he and Richard Rogalski will be attending a pre-construction meeting in Moore tomorrow morning for the retail project and hotel conference center. He will meet with the architect, engineers and utility companies to look at the schedule of events. They will close on the property in a week. He stated in three years we will add a million square feet of retail shopping to this community.

Wells complimented the police department on the ward report. The numbers have been the smallest he has seen since he has been on council.

Haywood stated crime has gone down in Ward 7 and he appreciates all of the departments who are doing their job.

Bellino-Hall stated the University of Oklahoma has a new Institute for Quality Communities. They have a conference coming up on Wednesday, April 3rd that she would like to attend. It shows the importance of having a quality community, what it means and how to get there.

Jackson stated he is excited to get a chance to work with the council on making Lawton a better place to live.

Morford stated this is an exciting time in Lawton. People in the community are really interested and he feels good things are going to happen.

Long stated the FY 2011-2012 audit is forthcoming and they anticipate they will receive it by the end of March. He stated staff is meeting to work through the challenges with the FY 2013-2014 budget.

The Mayor and Council convened in executive session at 6:52 p.m. and reconvened in regular, open session at 7:30 p.m. Roll call reflected all members present.

BUSINESS ITEMS: EXECUTIVE SESSION ITEMS

20. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending lawsuit of Loretta Mae Dillard and if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of item 20. No action was taken.

21. Pursuant to Section 307(B)(3), Title 25, Oklahoma Statutes, consider convening in executive session to discuss the proposed sale of approximately 50 ½ acres, collectively or by parcel, of City-owned real property in the vicinity of NW 67th Street and Rogers Lane, as authorized by Ordinance No. 11-07, and take appropriate action in open session. Exhibits: None.

Jensen read the title of item 21. No action was taken.

22. Pursuant to Section 307B3 and C10, Title 25, Oklahoma Statutes, consider convening in executive session for the purposes of conferring on matters pertaining to economic development, including the purchase/transfer of property, incentive proposals, and financing in connection with the Lawton Downtown Redevelopment Project and other development projects under consideration in the City, and take appropriate action in open session as necessary. Exhibits: None.

Jensen read the title of item 22. No action was taken.

There being no further business to consider, the meeting adjourned at 7:32 p.m. upon motion, second and roll call vote.

FRED L. FITCH, MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK